

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION See paragraph 2 below

International application No.
PCT/GB2004/005351

International filing date (day/month/year)
20.12.2004

Priority date (day/month/year)
19.12.2003

International Patent Classification (IPC) or both national classification and IPC
A45B23/00

Applicant
HOYLAND FOX LIMITED

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material:
 in written format
 in computer readable form
 - c. time of filing/furnishing:
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. IV Lack of unity of invention

1. In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
 - paid additional fees.
 - paid additional fees under protest.
 - not paid additional fees.
2. This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is:
 - complied with
 - not complied with for the following reasons:

see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
 - all parts.
 - the parts relating to claims Nos.

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	4, 5-16
	No: Claims	1-3
Inventive step (IS)	Yes: Claims	6-13,16
	No: Claims	1-5,14,15
Industrial applicability (IA)	Yes: Claims	1-16
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item IV.

The separate groups of inventions are:

Group 1 Claims: 1-5,14,15
directed to an umbrella head designed to be supported on a pole.

Group 2 Claims: 6-13,16
directed to a clamp for holding two elongate members.

They are not so linked as to form a single general inventive concept (Rule 13.1 PCT) for the following reasons:

The definitions of the different (groups of) claimed inventions are only intended to identify said inventions in a concise manner. They may well, as such, comprise terms or generalisations which upon a close analysis could be found to extend the defined subject matter beyond the contents of the applications as filed.

The technical features of the first group of claims solve the apparent problem of improving the attaching of the umbrella to the pole by using a clamp.

The technical features of the second group of claims solve the apparent problem of improving the holding of two elongate members by using a cooperating engaging surfaces of the two parts constituting the clamp.

Different solutions are proposed for different problems and it would appear that all the claimed inventions can be applied independently of each other. Moreover this is described also in the description:

page 1 lines 1 to 3: "The present invention relates to a clamp (...) and to a pendulum umbrella"

page 1 line 36 and page 3 line 29: "first aspect/second aspect"

page 9 line 1 to 2 : "it would also be possible to use different clamps..."

From the cited passages it is clear that the two invention (the umbrella and the clamp) can be applied independently of each other.

The subject of the groups of claims 1 and 2, defined by the problems posed and their means of solution, are thus so different from each other that no technical relationship or interaction can be appreciated to be present so as to form a single general inventive concept; except that all devices or methods are used in treating food, which is per se well known (see the docs cited in the partial search report).

Hence the application does not meet the requirements of unity of invention (Rules 13.1, 13.2, 13.3 PCT).

Re Item V.

1 Reference is made to the following documents:

D1 : US 4 586 525 A (GLATZ ET AL) 6 May 1986 (1986-05-06)
D2 : US 2003/127120 A1 (WOLCOTT STEVE) 10 July 2003 (2003-07-10)
D3 : US 5 611 364 A (WOODS ET AL) 18 March 1997 (1997-03-18)

2 INDEPENDENT CLAIM 1

2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parentheses applying to this document):

An umbrella head (82) designed to be supported on a pole (4), the umbrella head having a shaft portion (fig 6), ribs (92) extending outwardly from the shaft to support a cover, a runner (96) slidably mounted on the shaft portion and stretchers (94) extending radially from the said runner to the ribs, and a clamp* (22) for releasably attaching the umbrella head to the pole, the umbrella head clamp (22) being disposed at the top of the shaft.

* The term "clamp" is given the significance: "device for holding things together" (see Oxford dictionary), therefore any means (like the hook(22) of D1) which can hold together the umbrella head and the pole and which is suitable for releasably attaching the umbrella head to the pole will fall under the meaning of the term "clamp" of present

independent claim 1.

3 DEPENDENT CLAIMS 2, 3, 4, 5, 14, 15

Dependent claims 2, 3, 4, 5, 14, 15 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT) either because they are known from the documents cited in the international Search Report, either because they are very well known features and their use would be obvious to the person skilled in the art.

4. INDEPENDENT CLAIM 6

The prior published documents, cited in the international search report, either taken individually or in combination do not disclose, suggest or reasonably lead the person skilled in the art to consider a clamp device comprising all the features claimed in present claim 1 in the known clamps for holding two elongated members.

The person skilled in the art would not be able to combine all the features of the present independent claim and as such arrive at the claimed devices or methods without an inventive activity.

5. DEPENDENT CLAIMS 7-13

Dependent claims 7 to 13 are dependent on claim 6, and thus they satisfy the requirements of Article 33(2)(3) PCT.

6. INDEPENDENT CLAIM 16

The prior published documents, cited in the international search report do not disclose, suggest or reasonably lead the person skilled in the art to consider a kit comprising clamps according to claim 6.